

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES  
2 SKYLINE, 10th FLOOR  
5203 LEESBURG PIKE  
FALLS CHURCH, VIRGINIA 22041

AUG 21 1986

|                              |   |                          |
|------------------------------|---|--------------------------|
| SECRETARY OF LABOR,          | : | CIVIL PENALTY PROCEEDING |
| MINE SAFETY AND HEALTH       | : |                          |
| ADMINISTRATION (MSHA),       | : | Docket No. SE 86-12-M    |
| Petitioner                   | : | A. C. No. 09-00265-05505 |
| v.                           | : |                          |
|                              | : | Junction City Mine       |
| BROWN BROTHERS SAND COMPANY, | : |                          |
| Respondent                   | : |                          |
|                              | : |                          |

DECISION

Appearances : Ken S. Welsch, Esq., Office of the Solicitor,  
U. S. Department of Labor, Atlanta, Georgia,  
for the Petitioner  
Messrs Carl Brown, Steve Brown, and Greg  
Brown, Howard, Georgia, for the Respondent

Before: Judge Kennedy

This matter came on for a hearing in Columbus, Georgia in June 1986. The parties' stipulations as to jurisdiction, size, prior violations, ability to pay, and abatement are a part of the record. Four of the seven violations charged were cited for insignificant and insubstantial conditions. At the conclusion of the presentation of evidence as to each violation the trial judge entered a tentative bench decision. As a result five of the seven violations were dismissed, including one S&S violation. Of the two remaining violations one was reduced from S&S to non-S&S and the other was affirmed.

After receipt of the transcript the parties were afforded an opportunity to file post-hearing briefs challenging the tentative bench decisions.

Based on a review of the evidence in the record considered as a whole, I find each of the tentative decisions should be, and hereby is, CONFIRMED for the reasons set forth in the transcript and as supplemented below.

Citation No. 2007655

On July 19, 1985, the windshield on a John Deere 644-B front-end loader was cited for a non-S&S violation of 30 CFR